

Nanette D. Sanders (State Bar No. 120169)
nanette@ringstadlaw.com
RINGSTAD & SANDERS LLP
2030 Main Street, 16th Floor
Irvine, CA 92614
Telephone: 949-851-7450
Facsimile: 949-851-6926

General Bankruptcy Counsel for Bradley Sharp,
Chapter 7 Trustee

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA – SANTA ANA DIVISION

In re

MARC JOSEPH SPIZZIRRI,

Debtor.

Case No. 8:13-BK-14702 MW

Chapter 7 Proceeding

**NOTICE OF INTENT TO ABANDON
LITIGATION AND RELATED CLAIMS**

[No Hearing Required]

PLEASE TAKE NOTICE that pursuant to 11 U.S.C. § 554(a), Bradley Sharp, the duly appointed, qualified, and acting Trustee in the above-captioned chapter 11 bankruptcy proceeding (the “Trustee”), intends to abandon the following asset of the bankruptcy estate (the “Estate”) of Marc Joseph Spizzirri (the “Debtor”), effective as of the petition date, as burdensome and of inconsequential value to the estate:

All claims related to or arising out of that certain litigation entitled

Family Investment Company, Inc. v. Mach-1 Autogroup, et al., Case No.

30-2009-00126504, pending before the Orange County Superior Court,

Central Justice Center (the “Litigation”), as scheduled by the Debtor in

his Statement of Financial Affairs [Docket No. 28, page 31 of 43],

including, but not limited to, (1) all claims (direct or counter) asserted in

the Litigation, (2) any claims against Mach-1 Autogroup, Mach-1 RSMH

1 **LLC, Craig Baptiste and Barry Baptiste (the “Mach-1 Parties”) arising**
2 **out of the post-judgment activities of each and damage to the estate**
3 **and/or the Debtor by virtue of the loss of the real properties located at**
4 **30721 Hunt Club Drive, San Juan Capistrano, CA and 3292 Kilihiwai**
5 **Road, Kilauea, Kauai, HI, the interest in the real property (a deed**
6 **restriction) located at Lot D or Tract 15219 and all rights respecting Lot**
7 **2 of Tract 15218, Rancho Santa Margarita, CA, or the loss or diminution**
8 **in value of the estate’s interests in Auto Orange II, LLC, Family**
9 **Collectibles, LLC dba Family Classic Cars, or Family Equities**
10 **Management, LLC, or any other entity in which the Estate has an**
11 **interest.**

12 By the proposed abandonment, it is the Trustee’s intention that the Litigation proceed to
13 trial, without the involvement of the Estate or the assertion by the Estate of any claim to any
14 portion of any judgment ultimately obtained by the Debtor by one or more of the Mach-1 Parties.

15 A trustee may abandon any property of the estate that is burdensome to the estate or that is
16 of inconsequential value and benefit to the estate. 11 U.S.C. § 554(a). The only concern of a
17 bankruptcy trustee in determining whether to abandon property is whether the abandonment
18 would be in the best interest of the estate. *In re Nevin*, 135 B.R. 652, 653 (Bankr. D. Haw. 1991).

19 Here, the Debtor and the Mach-1 Parties have been involved in the Litigation for more
20 than four years. Given the Debtor’s successful appeal of the judgment awarded certain of the
21 Mach-1 Parties following an initial trial, additional discovery is underway or to be taken, with a
22 new trial scheduled for the fall of 2016. The Debtor expended substantial funds in
23 prosecuting/defending the initial trial and, now that the Mach-1 Parties have been granted relief
24 from the automatic stay permitting the Litigation to proceed, the Debtor is poised to expend
25 additional substantial funds in connection with the second trial. The Estate has insufficient funds
26 on hand to finance the continued litigation and is administratively insolvent between Chapter 7
27 and Chapter 11 administrative fees.

28

After taking into consideration, among other things, the costs associated with continued prosecution of the Litigation, the Trustee has determined that the Litigation and related claims are burdensome and of inconsequential value to the estate.

PLEASE TAKE FURTHER NOTICE that any objection to and request for hearing on the abandonment of the Litigation and related claims must be filed and served not more than 14 days after service of this notice. If no timely objection and request for hearing is filed and served, the Litigation and related claims will be deemed abandoned without further order of the Court. Notwithstanding the provisions of Local Bankruptcy Rule 6007-1, so as to avoid any confusion on the part of any interested party in this proceeding, the Trustee intends to submit an order for the review and approval by the Court, confirming abandonment of the Litigation and related claims. **SEE LOCAL BANKRUPTCY RULE 6007-1.**

PLEASE TAKE FURTHER NOTICE that any objection to and request for hearing on the abandonment of the Litigation and related claims must be a complete written statement of all reasons in opposition, declarations and copies of all evidence on which the responding party intends to rely, and any responding memorandum of points and authorities. The objection and request for hearing must be timely-filed (with a duplicate copy) with the Clerk for the above-captioned Court, located at 411 West Fourth Street, Suite 2030, Santa Ana, California 92701. The objection and request for hearing must also be served on counsel for the Trustee at the address indicated in the upper-left-hand corner of the first page of this document, as well as on all other parties entitled to service thereof. **SEE LOCAL BANKRUPTCY RULE 9013-1.**

Dated: February 1, 2016

RINGSTAD & SANDERS LLP

By: /s/ Nanette D. Sanders
Nanette D. Sanders
General Bankruptcy Counsel for
Bradley Sharp, Chapter 7 Trustee

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
2030 Main Street, Suite 1600, Irvine, CA 92614

A true and correct copy of the foregoing document entitled (*specify*): **NOTICE OF INTENT TO ABANDON LITIGATION AND RELATED CLAIMS** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On February 1, 2016, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Mel Aranoff maranoff@hrbc.com
- Reem J Bello rbello@wgllp.com, kadele@wgllp.com;lfisk@wgllp.com;tziemann@wgllp.com
- William M. Burd wmburd@burd-naylor.com
- Dan E Chambers dchambers@clfca.com
- Ronald R Cohn rcohn@horganrosen.com
- Caroline Djang cdjang@rutan.com
- Fritz J Firman firmanweber@Yahoo.com
- Nichole Glowin nglowin@wrightlegal.net, BKUDGeneralupdates@wrightlegal.net
- Robert P Goe kmurphy@goeforlaw.com, rgoe@goeforlaw.com;mforsythe@goeforlaw.com
- Nancy S Goldenberg nancy.goldenberg@usdoj.gov
- Brian T Harvey bharvey@buchalter.com, IFS_filing@buchalter.com;dbodkin@buchalter.com
- James Andrew Hinds jhinds@jhindslaw.com, zbilowit@jhindslaw.com
- Stephen E Hyam shyam@clarktrev.com
- John Mark Jennings jjennings@shbllp.com
- Edgar C Johnson ej@vossjohnsonlaw.com, edgarcjohnson@gmail.com
- Simon Klevansky sklevansky@kplawhawaii.com
- Verlan Y Kwan verlan@keystone-law.com
- William N Lobel wlobel@lwgflp.com,
nlockwood@lwgflp.com;jokeefe@lwgflp.com;banavim@wgllp.com
- Brian R Nelson becky@ringstadlaw.com, brian@ringstadlaw.com
- Mike D Neue mneue@btntlaw.com
- Tom Roddy Normandin tnormandin@pnbd.com,
nwong@pnbd.com;srichards@pnbd.com;cathyjones@pnbd.com
- Robert E Opera ropera@winthropcouchot.com,
pj@winthropcouchot.com;vcorbin@winthropcouchot.com;mconour@winthropcouchot.com
- Eric S Pezold epezold@swlaw.com, sberumen@swlaw.com
- Brett Ramsaur bramsaur@swlaw.com, kcollins@swlaw.com
- Todd C. Ringstad becky@ringstadlaw.com
- Nanette D Sanders becky@ringstadlaw.com
- Justin Santarosa jsantarosa@hrbc.com
- Paul R Shankman pshankman@jhindslaw.com
- Leonard M Shulman lshulman@shbllp.com
- Scott O Smith ssmith@buchalter.com
- Derrick Talerico dtalerico@btntlaw.com

- United States Trustee (SA) ustpregion16.sa.ecf@usdoj.gov
- Michael J. Weiland mweiland@wglp.com, kadele@wglp.com;lfisk@wglp.com;tziemann@wglp.com
- Jeffrey N Williams jwilliams@wargofrench.com
- Brian Barourir Yeretzian byeretzian@jhindslaw.com, yeretzian@gmail.com

Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On ___, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL:

(state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on February 1, 2016, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Via Personal Delivery: Honorable Mark S. Wallace, U.S. Bankruptcy Court, Ronald Reagan Federal Building, 411 W. Fourth Street, Bin Beside the 6th Floor Elevators, Santa Ana, CA 92701-4593

Via Email:

Bradley Sharp
Development Specialists, Inc.
333 S. Grand Ave., #4070
Los Angeles, CA 90071-1544

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

February 1, 2016
Date

Becky Metzner
Printed Name

/s/ *Becky Metzner*
Signature